

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

MOLLIE K. CLARK )  
 )  
 v. ) NO. 3:05-0475  
 )  
 ALIVE HOSPICE, INC., et al. )

TO: Honorable Aleta A. Trauger, District Judge

**REPORT AND RECOMMENDATION**

By order entered June 30, 2005 (Docket Entry No. 2), this civil action was referred to the Magistrate Judge, pursuant to 28 U.S.C. § 636 and Rule 72 of the Federal Rules of Civil Procedure, for pretrial proceedings.

The plaintiff filed this action pro se on June 14, 2005, asserting a claim of employment discrimination. The record in the action does not reflect that process has been served on the defendants by the plaintiff, and no response to the complaint has ever been filed. The record also shows that the action has been dormant for over six months.

Accordingly, the Court recommends that this action be dismissed. There is nothing which indicates that the defendants have been served with process within 120 days of the date this action was filed as required by Rule 4(m) of the Federal Rules of Civil Procedure. Rule 4(m) provides that, in the absence of a showing of good cause by the plaintiff for why service has not been timely made, the Court "shall dismiss" the action without prejudice. Further, Rule 8(a)(8) of the Local Rules of Court provides that a civil action that has been on the docket for six months without any responsive pleading or other court proceedings taken therein shall be dismissed as a matter of course, but that

the dismissal shall be without prejudice to refile or to move the Court to set aside the order of dismissal for just cause.

### **R E C O M M E N D A T I O N**

Accordingly, the Court respectfully RECOMMENDS that this action be DISMISSED without prejudice as set out above.

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of receipt of this notice and must state with particularity the specific portions of this Report and Recommendation to which objection is made. Failure to file written objections within the specified time can be deemed a waiver of the right to appeal the District Court's Order regarding the Report and Recommendation. See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

Respectfully submitted,

  
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JULIET GRIFFIN  
United States Magistrate Judge